

IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

COMMUNITY BANK OF RAYMORE,

Respondent,

v.

PATTERSON OIL CO., INC.,

Appellant.

DOCKET NUMBER WD77275

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 3, 2015

APPEAL FROM

The Circuit Court of Cass County, Missouri
The Honorable Meryl L. Lange, Judge

JUDGES

Division I: Martin, P.J., and Newton and Pfeiffer, JJ.

CONCURRING.

ATTORNEYS

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Attorneys for Respondent,

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5. by failing to instruct the jury how it should measure lost “rents and profits,” thereby erroneously allowing the jury a roving commission.

AFFIRMED.

Division I holds:

1. A defendant cannot assert wrongful foreclosure as a defense to an unlawful detainer action.
2. The outcome of an unlawful detainer action does not turn on which party is able to demonstrate superior title.
3. Damages for rents and profits may be measured by the reasonable rental value of the rented premises during the period of unlawful detention, and the amount of damages calculated by the jury was within the range of evidence presented by the parties.
4. The trial court had already determined right to possession of the property in favor of Bank when it granted summary judgment in Bank’s favor; therefore, there was no need for the jury to make the same finding.
5. The words “rents and profits” are commonly used and readily understandable and provided the jury with sufficient instruction on this element of Bank’s claim. The instruction was not a roving commission because it did not assume any disputed facts or submit abstract legal questions to the jury.

Opinion by: Mark D. Pfeiffer, Judge

March 3, 2015

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